

§ 906.15

other fair and reasonable arrangement that will accomplish the essential purposes stated in paragraph (a) of this section.

(e) *Appraisal.* Determinations of fair market value under this section shall be made on the basis of appraisal within a reasonable time prior to sale by an independent appraiser, to be selected by the PHA.

§ 906.15 Use of sale proceeds.

(a) *General authority for use.* Sale proceeds may, after provision for sale and administrative costs that are necessary and reasonable for carrying out the homeownership plan, be retained by the PHA and used for housing assistance to low-income families (as such families are defined under the Act). The term “sale proceeds” includes all payments made by purchasers for credit to the purchase price (*e.g.*, earnest money, downpayments, payments out of the proceeds of mortgage loans, and principal and interest payments under purchase-money mortgages), along with any amounts payable upon resale under § 906.14, and interest earned on all such receipts. (Residual receipts, as defined in the ACC, shall not be treated as sale proceeds.)

(b) *Permissible uses.* Sale proceeds may be used for any one or more of the following forms of housing assistance for low-income families, at the discretion of the PHA and as stated in the HUD-approved homeownership plan:

(1) In connection with the homeownership plan from which the funds are derived, for purposes that are justified to ensure the success of the plan and to protect the interests of the homeowners, the PHA and any other entity with responsibility for carrying out the plan. Nonexclusive examples include nonroutine maintenance reserves under § 906.11; a reserve for loans to homeowners to prevent or cure default or for other emergency housing needs; a reserve for any contingent liabilities of the PHA under the homeownership plan (such as PHA guaranty of mortgage loans); and a reserve for PHA repurchase, repair and resale of homes in the event of defaults.

(2) In connection with another HUD-approved homeownership plan under this part, for assistance to purchasers

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and for reasonable planning and implementation costs.

(3) In connection with a State or local homeownership program for low-income families, as described in the homeownership plan, for assistance to purchasers and for reasonable planning and implementation costs. Under such programs, sales proceeds may be used to construct or acquire additional dwellings for sale to low-income families, or to assist such families in purchasing other dwellings from public or private owners.

(4) In connection with the PHA's other public housing that remains under ACC, for any purposes authorized for the use of operating funds under the ACC and applicable provisions of the Act and Federal regulations, as included in the HUD-approved operating budgets. Examples include maintenance and modernization, augmentation of operating reserves, protective services, and resident services. Such use shall not result in the reduction of the operating subsidy otherwise payable to the PHA under 24 CFR part 990.

(5) In connection with any other type of Federal, State, or local housing program for low-income families, as described in the homeownership plan.

§ 906.16 Replacement housing.

(a) *Replacement requirement.* As a condition for transfer of ownership under a HUD-approved homeownership plan, the PHA must obtain a funding commitment, from HUD or another source, for the replacement of each of the dwellings to be sold under the plan. Replacement housing may be provided by one or any combination of the following methods:

(1) Development by the PHA of additional public housing under 24 CFR part 941 (by new construction or acquisition).

(2) Rehabilitation of vacant public housing owned by the PHA.

(3) Use of five-year, tenant-based certificate or voucher assistance under Section 8 of the Act.

(4) If the homeownership plan is submitted by the PHA for sale to residents through an RMC, resident organization or cooperative association which is otherwise eligible to participate under this part, acquisition of nonpublicly-

owned housing units, which the RMC, resident organization or cooperative association will operate as rental housing, comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent.

(5) Any other Federal, State, or local housing program that is comparable, as to housing standards, eligibility and contribution to rent, to the programs referred to in paragraphs (a)(1) through (a)(3) of this section, and provides a term of assistance of not less than five years.

(b) *Funding commitments.* Although a HUD funding commitment is required if the replacement housing requirement is to be satisfied through any of the HUD programs listed in paragraph (a) of this section, HUD's approval of a Section 5(h) homeownership plan on the expectation that such a funding commitment will be forthcoming shall not constitute a binding obligation to make such a commitment. Where the requirement is to be satisfied under a State or local program, or a Federal program not administered by HUD, a funding commitment shall be required from the proper authority.

(c) *Use of sale proceeds to fund replacement housing.* Sale proceeds that are generated under the homeownership plan may be used under some of the replacement housing options under paragraph (a) of this section (e.g., rehabilitation of vacant public housing units, or an eligible local program). Where a homeownership plan provides for sale proceeds to be used for replacement housing, HUD approval of the plan and execution of the PHA-HUD implementing agreement shall satisfy the funding commitment requirement of paragraph (a) of this section, with regard to the amount of replacement housing to be funded out of sale proceeds.

(d) *Consistency with current housing needs.* Replacement housing may differ from the dwellings sold under the homeownership plan, as to unit sizes or family or elderly occupancy, if the PHA determines that such change is consistent with current local housing needs for low-income families.

(e) *Inapplicability to prior plans.* This section shall not apply to homeownership plans that were submitted to HUD

under the Section 5(h) Homeownership Program prior to October 1, 1990.

§ 906.17 Records, reports, and audits.

The PHA shall be responsible for the maintenance of records (including sale and financial records, which must include information on the racial and ethnic characteristics of the purchasers) for all activities incident to implementation of the HUD-approved homeownership plan. Until all planned sales of individual dwellings have been completed, the PHA shall submit to HUD annual sales reports, in a form prescribed by HUD. The receipt, retention, and expenditure of the sale proceeds shall be covered in the regular independent audits of the PHA's public housing operations, and any supplementary audits that HUD may find necessary for monitoring. Where another entity is responsible for sale of individual units, pursuant to § 906.7(b), the PHA must ensure that the entity's responsibilities include proper record-keeping and accountability to the PHA, sufficient to enable the PHA to monitor compliance with the approved homeownership plan, to prepare its reports to HUD, and to meet its audit responsibilities. All books and records shall be subject to inspection and audit by HUD and the General Accounting Office (GAO).

(Approved by the Office of Management and Budget under control number 2577-0201)

§ 906.18 Submission and review of homeownership plan.

Whether to develop and submit a proposed homeownership plan is a matter within the discretion of each PHA. A PHA may initiate a proposal at any time, according to the following procedures:

(a) *Preliminary consultation with HUD staff.* Before submission of a proposed plan, the PHA shall consult informally with the appropriate HUD Field Office to assess feasibility and the particulars to be addressed by the plan.

(b) *Submission to HUD.* The PHA shall submit the proposed plan, together with supporting documentation, in a format prescribed by HUD, to the appropriate HUD Field Office.